## REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejections presented in the outstanding Office Action in light of the following remarks. Applicants intend no change in scope of the claims by the changes made by this amendment and have introduced no new matter to the specification.

Claims 1-49 were pending in the instant application at the time of the outstanding Office Action. Claims 1, 24, 25, 27, and 46-49 are independent claims. Claims 5, 10, 11, and 30 have been cancelled herein without prejudice, while the independent claims have been rewritten. Various other claims have been amended by changing the dependency to reflect the cancellation of Claims 5, 10, 11 and 30. These amendments are not in acquiescence of the Examiner's position on the allowability of the claims, but merely to expedite prosecution.

Claims 1-49 stand rejected under 35 U.S.C. 103(a) over Kane in view of Bigus et al. The Office admits that neither of these references describe the present invention, but claims that the combination of the teachings of these references would make the present obvious to a person of ordinary skill in the art. This is not supported by the references. Reconsideration and withdrawal of the present rejection is therefore respectfully requested.

Independent Claims 1, 24, 25, 27, and 46-49 have all been amended to recite at least obtaining information about "the auction type and auction rules" and computing an

order taking into account information related to the auction. These amendments clarify that in the present invention the strategy used for order computation is dynamically selected; the selected strategy is based, in part, upon information about the auction. As such, the present invention is applicable to a wide variety of auctions. It is respectfully submitted that such features are neither taught nor suggested by the applied references.

As best understood, Kane appears to be directed to a securities trading software system which implements the "Wealth Wizard" method developed by the named inventor over a period of "14 years of experience". (Col. 1, lines 29-33) Kane is limited to securities trading, which is a double auction, and there is no teaching or suggestion to use the method of Kane in any other type of auction. Furthermore, Kane appears to be based upon known market conditions, i.e., the observed history of the market. As such, there is no active learning in Kane.

As best understood, Bigus et al. appears to be directed to the use of intelligent agents in bilateral negotiations, not auctions, and does not appear to be applicable to any other circumstance. Indeed, in Bigus et al. the "negotiation strategy [is] disguised from other negotiating parties to prevent such parties from gaining negotiating advantages" and the efficiency of agents "may be improved by limiting negotiations that are likely to be unproductive." (Col. 3, lines 55-58; Col. 3, line 66 - Col. 4, line 1)

The combination of Kane and Bigus et al. fails to teach or suggest the instantly claimed invention. As clearly defined by the claims, the instantly claimed invention is applicable to various types of auctions and requires obtaining information about the

auction, including the auction type and rules, and using that information. (Claim 1) Similar language appears in the other independent claims. Neither Kane nor Bigus et al. may be used with a wide variety of auctions, as the present invention may be.

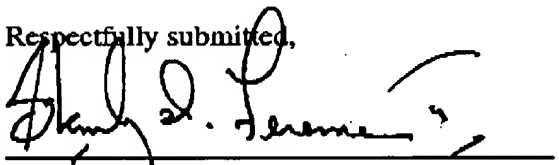
Moreover, combining the teachings of Kane and Bigus et al. would not result in the instantly claimed invention. If these teachings were combined, at best, the Wealth Wizard of Kane would be used in a bilateral negotiation so long as the bilateral negotiation behaved in a known manner. Thus, following the teachings of Kane and Bigus et al. would not result in the claimed invention which is applicable to various types of auctions. Kane and Bigus et al. do not teach or disclose this, either alone or in combination.

Claims 47-49 also stand rejected under 35 U.S.C. 101 allegedly for failing to define a concrete, useful, and tangible result. This rejection is not understood. These claims are so-called Beauregard claims, after the case in which the Office stated "that computer programs embodied in a tangible medium, such as floppy diskettes, are patentable subject matter under 35 U.S.C. § 101 and must be examined under 35 U.S.C. §§ 102 and 103." *In re Beauregard*, 53 F.3d 1583, 35 USPQ2d 1383 (Fed. Cir. 1995); *see also Examination Guidelines for Computer Related Inventions*, MPEP § 2106. Patents containing claims of this type have been issued as recently as the date on which this Amendment is being submitted. *See* Claim 26, U.S. Patent No. 6,735,492, issued on May 11, 2004. Accordingly, it is respectfully submitted that this rejection should be withdrawn.

In view of the foregoing, it is respectfully submitted that Claims 1, 24, 25, 27, and 46-49 fully distinguish over the applied art and are thus allowable. By virtue of dependence from Claims 1, 24, 25, 27, and 46-49, it is thus also submitted that Claims 2-4, 6-9, 12-23, 26, 28-29, 31-45 are also allowable at this juncture.

In summary, it is respectfully submitted that the instant application, including Claims 1-4, 6-9, 12-29, and 31-49, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited. In the unlikely event the Office does not agree the application is in condition for allowance, Applicants respectfully request an interview with the Examiner prior to the next Office Action in this case.

Respectfully submitted,



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